

No. 14-1666

**United States Court of Appeals
for the Federal Circuit**

BRK BRANDS, INC. & GARY J. MORRIS, PH.D.,

Plaintiffs-Appellants

v.

NEST LABS, INC.,

Defendant-Appellee

On Appeal from the United States District Court for the Northern District of Illinois
Case No. 1:13-cv-07900, Honorable Richard A. Posner

**UNOPPOSED MOTION TO ALLOW FOR A 45-DAY EXTENSION OF
TIME TO FILE APPELLANTS' INITIAL BRIEF**

<p>BRYAN J. SINCLAIR K&L GATES LLP 630 HANSEN WAY PALO ALTO, CA 94304 Telephone: (650) 798-6700 Facsimile: (650) 798-6701</p> <p><i>[Additional Counsel Listed on Signature Page]</i></p> <p><i>Attorneys for Plaintiff-Appellant BRK BRANDS, INC.</i></p>	<p>LYNN J. ALSTADT CRAIG G. COCHENOUR BUCHANAN INGERSOLL & ROONEY P.C. ONE OXFORD CENTRE 301 GRANT STREET, 20TH FL. PITTSBURGH, PA 15219-1410 Telephone: (412) 562-8800 Facsimile: (412) 562-1041</p> <p><i>Attorneys for Plaintiff-Appellant GARY J. MORRIS, Ph.D.</i></p>
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Plaintiffs-Appellants BRK Brands, Inc. and Gary J. Morris, Ph.D.

(collectively, “Appellants”) hereby move, under FRAP 26(b) and Federal Circuit Rule 26(b), and based on the accompanying Declaration of Bryan J. Sinclair, for a 45-day extension of time as follows:

Event	Original Deadline	Revised Deadline
Appellants’ Initial Brief	Sept. 23, 2014	Nov. 7, 2014

All subsequent deadlines will consequently be extended in accordance with the Federal Rules of Appellate Procedure and the Federal Circuit Rules. No prior extensions of time have been sought or obtained by Appellants. Counsel for Nest Labs, Inc. have stated that they will not oppose this motion.

Dated: September 3, 2014

Respectfully Submitted,

/s/ Bryan J. Sinclair

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APPELLANT BRK BRANDS, INC.

/s/ Lynn J. Alstadt

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ATTORNEYS FOR PLAINTIFF-
APPELLANT GARY J. MORRIS,
PH.D

DECLARATION OF GOOD CAUSE

I, Bryan J. Sinclair, declare:

1. I am an attorney duly licensed and admitted to practice before this Court and a partner in the law firm of K&L Gates LLP. I have personal knowledge of the facts hereafter stated, and if called and sworn as a witness, could testify competently thereto. I make this declaration in support of this unopposed motion to allow for a 45-day extension of time to file appellants' initial brief.

2. Nature of Appeal: This appeal arises from a patent lawsuit.

3. Good Cause: There is good cause for this extension of time. The parties are actively pursuing efforts to settle this litigation.

4. Opposing Counsel Position: Counsel for Appellee Nest Labs, Inc. have stated that they do not oppose this requested extension.

I declare under penalty of perjury under 28 U.S.C. § 1746 that the foregoing is true and correct. Executed this 3rd day of September, 2014 at Palo Alto, California.

/s/ Bryan J. Sinclair
Bryan J. Sinclair

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**[PROPOSED] ORDER GRANTING UNOPPOSED MOTION TO ALLOW
FOR A 45-DAY EXTENSION OF TIME TO FILE APPELLANTS' INITIAL
BRIEF**

Good cause appearing, it is hereby ordered that Plaintiffs-Appellants'
Unopposed Motion to Allow for a 45-Day Extension of Time to File Appellants'
Initial Brief is granted. The revised deadline is as follows:

Event	Deadline
Appellants' Initial Brief	Nov. 7, 2014

All subsequent deadlines will be set in accordance with the Federal Rules of Appellate Procedure and the Federal Circuit Rules.

Dated: _____

By: _____

CERTIFICATE OF INTEREST

Counsel for Appellant BRK Brands, Inc. certifies the following:

1. The full name of every party or amicus represented by me is:

BRK Brands, Inc.

2. The name of the real party in interest represented by me is:

None.

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

Jarden Corporation.

4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:

Bryan J. Sinclair, Sanjay K. Murthy, Michael J. Abernathy, Benjamin E.

Weed, Devon C. Beane, Ravi S. Deol of K&L Gates LLP.

Dated: September 3, 2014

/s/ Bryan J. Sinclair

Signature of counsel

Bryan J. Sinclair

Printed Name of counsel

CERTIFICATE OF INTEREST

Counsel for Appellant Gary J. Morris, Ph.D. certifies the following:

1. The full name of every party or amicus represented by me is:

Gary J. Morris, Ph.D.

2. The name of the real party in interest represented by me is:

None.

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

None.

4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:

Buchanan Ingersoll & Rooney PC - Lynn J. Alstadt, Craig G. Cochenour;
K&L Gates LLP - Bryan J. Sinclair, Sanjay K. Murthy, Michael J. Abernathy,
Benjamin E. Weed, Devon C. Beane, Ravi S. Deol.

Dated: September 3, 2014

/s/ Lynn J. Alstadt

Signature of counsel

Lynn J. Alstadt

Printed Name of counsel

FORM 30. Certificate of Service

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF SERVICE

I certify that I served a copy on counsel of record on
by:

Sep 3, 2014

- ☐ US mail
☐ Fax
☐ Hand
☒ Electronic Means
(by email or CM/ECF)

Bryan J. Sinclair

Name of Counsel

/s/ Bryan J. Sinclair

Signature of Counsel

Law Firm

K&L Gates LLP

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NOTE: For attorneys filing documents electronically, the name of the filer under whose log-in and password a document is submitted must be preceded by an "/s/" and typed in the space where the signature would otherwise appear. Graphic and other electronic signatures are discouraged.